



GEORGIA M. PESTANA
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

Kimberly Joyce
Senior Counsel
phone: (212) 356-2650
fax: (212) 356-3509
kjoyce@law.nyc.gov

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Via ECF

Honorable Laura T. Swain
United States District Judge
United States District Court
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Mark Nunez, et. al. v. City of New York, et al.,
11 Civ. 05845 (LTS)(JCF)

Your Honor:

I am writing on behalf of the City Defendants as required by the Court's September 29, 2021 order to provide, by October 14, 2021, "*a report to the Court setting forth the status of efforts to implement the ongoing initiatives that the City has articulated and that are set forth in Appendix A of the Monitor's September 23, 2021 report.*" Dkt. 398. Below is the Defendants' status report on its efforts related to Appendix A – which focused on jail conditions, staffing, and reduction of the population. Additionally, the Department has been working collaboratively with the Monitoring Team to provide them with the information they are required to report to the Court today, specifically the Department's efforts to implement the requirements set forth in Paragraph 1 of the Second Remedial Order.

Conditions

In addressing conditions in the jails, Defendants focused on reducing idle time in the jails (tablets and recreation); young adults (young adult task force, co-mingling, restrictive housing, and cell door repair); contraband recovery (contraband secretion and digitized mail); self-harm (policies and suicide aides); intake and medical wait times (OBCC/EMTC intake plan, on-the job medical care for staff, and housing unit medical care for incarcerated individuals); and meals and sanitation. Since the September 24, 2021 conference with the Court, the following has occurred:

- **Tablets**: Tablets have been fully deployed at all housing areas except for one housing area within GRVC. The Department is not distributing tablets in Intake facilities (EMTC), in "AE" (asymptomatic exposure) housing (OBCC) because of the need for programming staff to be in contact with those who receive the devices, or in areas used for segregation. The Department has issued approximately 3,755 tablets to persons in custody.
- **Recreation**: Each Command has a Recreation Team comprised of Recreation Captain(s) and Recreation Officers. Additionally, the Programs Division has non-uniformed Recreation Supervisors and non-uniformed Recreation Directors at all facilities. Since the launch of the Department's plan to address the current conditions, the recreation teams from the Commands and Program Division have started to plan daily how to assign their respective staff members to provide as many individuals as possible with recreation in the yards or on the housing units. Simultaneously, the Department has reached out to its contracted providers and asked if they, too, could provide recreational activities. All parties expressed interest, and one organization already assigned additional staff to AMKC. While the additional staff members are currently assisting with the distribution and collection of tablets, they will soon afford recreation on the housing units. The Department continues to explore with the other organizations that expressed interest how they, too, can support the recreation expansion efforts.
- **Young Adult Task Force**: In January 2015, the Department developed the Adolescent Advisory Board which 2 years later became the "Young Adult Task Force." Many members of the previous Advisory Board, additional community-based organizations, and other stakeholders accepted our invitation to return as the "Young Adult Task Force." The return of the group as The Task Force was designed to be led by the First Deputy Commissioner of Programming and Operations as Chair and a Co-Chair. The Co-Chair (a member of a community-based organization) was elected at the "kick-off meeting" held on June 30, 2021. The Task Force meets the second Wednesday of every month and continues to evolve based on the input by stakeholders interested in advancing the well-being and living conditions in which young adults reside. The purpose of the Task Force is to leverage cross-agency resources and expertise in support of the Department's goals around improving living and working conditions for young adults. This group is predominately staffed by leaders from external agencies, providers, and non-profits in addition to DOC and facility leadership.

These meetings have resulted in the launch of two working groups: "The Education Team," which focuses on access and housing for students enrolled in education (established September 8, 2021) and the "Rapid Response Team" to raise concerns or

ideas with RNDC and DOC leadership (which was implemented on October 7, 2021 and meets bi-weekly).

- **Co-mingling:** The Department does engage in co-mingling in certain circumstances and only with the approval of the Chief of Department.
- **Restrictive Housing:** GRVC currently does have Young Adults in Enhanced Supervision Housing.
- **Cell Door Repair:** There were 900 cell doors at RNDC that required replacement. Of those 900, 300 have been replaced as of October 10, 2021 and an additional 250 will be replaced by February 2022. These 250 cell doors are in young adult housing.
- **Contraband Secretion:** The Department continues to use separation status to keep incarcerated individuals separated and monitored at GRVC to allow for assessment/secretion of suspected contraband.
- **Digitized Mail:** After further review, the idea of scanning and digitizing mail raised several concerns, including relating to logistics and implementation. The Department is currently examining alternatives that would meet the same goal, such as scanning devices that can detect certain narcotics.
- **Self-harm Policies:** Self-Harm and suicide prevention remain a critical priority for the Department. The Department's February 2, 2021 Directive "Suicide Prevention and Intervention" contains detailed information on the issue. More recently, on September 27, 2021, the Department issued a Teletype to facility and division Commanding Officers reinforcing the need for immediate action when any act of self-injurious harm is identified. This Teletype refers to and builds upon the February 2021 Directive, and the Monitor provided guidance on the text before it was issued. Information from the Directive and Teletype are being read at Roll Calls, and the Chief of Department has created binders with relevant information for facility leadership. The message is likewise being reinforced to uniformed leadership and supervisors at weekly meetings.

In addition, the Department is developing an informational campaign to keep officers informed about their obligations when they witness or learn of self-injurious behavior. This includes the development of informational tools – which may include posters, slides, and memo book inserts.

- **Suicide Prevention Aides:** Suicide Prevention Aides (SPAs) (an incarcerated individual) have been deployed in various housing units. When facility leadership identify a need in a housing area, the Department's Health Affairs visit the area to recruit incarcerated individuals for these roles. SPA candidates are trained and tested on content, and also undergo additional screening. As of October 7, 2021, there were approximately 88 SPAs in place across various housing units. The Department has determined that the greatest need is at AKMC, EMTC, and RNDC. The Department is actively reviewing options for placing SPAs in Intake.
- **OBCC/EMTC Intake Plan:** All new admission intakes are now processed/completed at EMTC (with the exception of female inmates processed at RMSC).
- **On-the-Job Medical Care for Staff:** The Department is actively working on this concept. After an initial review, the Department identified substantial costs associated with the project and is scheduled to meet with City stakeholders this week to assess funding options.

- **Housing Unit Medical Care for Incarcerated Individuals:** After an internal assessment with CHS, the Department determined that this program was not feasible due to several factors.
- **Meals and Sanitation:** Approximately 100 outside staff are being brought in to provide sanitation support at the Department's larger facilities. VCBC will be added to the schedule next.

Staffing

In addressing staffing in the jails, Defendants focused on addressing staff absenteeism (job action lawsuit, suspensions, sick leave protocols, AWOL discipline, and improved absence data) and staffing needs (increasing staff in the NYC jails and addressing overtime). Since the September 24, 2021 conference, the following has occurred:

Addressing Staff Absenteeism

- **Job Action Lawsuit:** No update required as the matter was withdrawn without prejudice.
- **Suspensions:** 110 individuals have been suspended as of October 13, 2021. Thirteen individuals resigned in lieu of receiving the suspension.
- **Sick Leave Protocols:** These protocols remain in effect. Long-term sick staff are still being evaluated by the Department

The Department routinely visits uniformed staff that have been out sick for 9 days or more. Home visits are not limited to members of service who are designated as chronic absent status. The work has been successful, and the Department has received assistance from the Inspector General's office with conducting Home Visits.

- **AWOL Discipline:** Thus far, six trials were expedited. Of these, five individuals resigned from the Department on the eve of trial. The sixth trial was scheduled to proceed on October 7, 2021 but was adjourned for technical reasons.
- **Improved absence data:** The Department has engaged a different service provider (Gartner) to assist with this data project. Using Department data, Gartner is providing the Department with a daily dashboard containing information on absenteeism and overtime. The dashboard is still an evolving project in that it currently focuses on agency-wide data but will next provide facility-level data. Operational teams will be using the dashboard in meetings this week regarding overtime and absenteeism.

Staffing Needs

- **Horizon:** No update required. All staff have returned to facilities operated by the Department.
- **Court Operations:** 68 correction officers were transferred from the courts as a result of NYPD taking over the Bronx and Manhattan arraignments. NYPD supplied 33 officers and 3 sergeants for the Bronx Arraignment section and 33 officers and 3 sergeants for the Manhattan arraignment section.

- **Additional Non-DOC staff:** The Department is in conversations with outside parties to assist with operations and transition of staff back to jails. The Department hired the former NYPD Chief of Operations to assist with civilianizing certain posts. With regards to Commissary, the Department is in contact with a vendor to help reimagine commissary practices at the Department but anticipate this change is several months away.
- **Recruitment (new staff):** The first cohort of 64 new recruits began their training in the Academy on September 30, 2021. The Department is engaged with recruitment and background investigations to allow for additional cohorts. The exam filing period ended on October 5, 2021, with an upcoming exam date scheduled for October 27, 2021. Approximately 5,663 individuals filed to take the exam.
- **Recruitment (former staff):** The Department has successfully contacted former Department staff, resulting in approximately 75 former staff expressing initial interest in returning. The Department is conducting additional follow-up with these former employees.

Addressing Overtime

- **Improving Fair Distribution of Overtime:** This strategy is being reinforced at senior leadership meetings.
- **Incentives:** The Department is providing hundreds of breakfast and lunch sandwiches each day to the facilities, offering both vegetarian and non-vegetarian options. Sandwiches are delivered directly to staff on triples and sandwiches for staff on doubles are located in the staff canteen (or cafeteria). Additionally, the Department has been contracting with the New York Food Vendor Association to bring food trucks to the island. These food trucks provide staff with a free meal for themselves and they can take up to 5 additional meals home for their families (or bring them back to coworkers on post). They have proven very popular and the Department increased from 2 trucks to 4 trucks to support the demand. The Department is also offering free rides home and back to work for those who worked triple shifts. The Department has also created space in its Staff Wellness Center for staff to sleep after long hours and refurbished the staff garden to provide a restful place for staff to relax.

Starting October 1st, employees who worked a third tour between April 1 and September 30, 2021 are eligible to receive a lump sum payment of \$75 or \$150 for each triple shift worked (depending on the number of hours worked during the triple shift). The Department is currently processing the payments for this first incentive period. There is a second incentive period from October 1, 2021 to December 31, 2021, during which similar financial incentives will be provided. These incentives are available to staff who have not been AWOL during the reporting periods and who have been out sick for fewer than four days (excluding COVID-related sick days).

Further, a special assignment pay incentive of 6% is being awarded to employees working in certain areas (Intake, Clinic, etc.). A total of 270 employees will be receiving this incentive pay on or around October 15, 2021.

Reducing Population

Since the September 24, 2021 conference, the following has occurred in the Department's efforts to reduce the inmate population:

- **Less is More Act:** A total of 201 individuals have been released under the Less is More initiative.
- **State Transfers:** As of October 1, the total number transferred was 145 individuals. The Department plans on transferring 10-15 more individuals per day once relevant COVID concerns are addressed with the state.
- **Swifter Justice:** The Department continues to advocate for expedited processing of these cases.

Additionally, yesterday, Mayor DeBlasio and Governor Hochul announced an agreement to transfer incarcerated women and trans individuals off Rikers Island to state facilities. Nearly all of women- and trans-identified individuals currently incarcerated on Rikers Island, over 200 individuals, will be temporarily transferred to two State-run facilities in Westchester County, the Bedford Hills Correctional Facility (Bedford) and the Taconic Correctional Facility (Taconic), both operated by the New York State Department of Corrections and Community Supervision (DOCCS). The Department will begin to transfer incarcerated individuals starting the week of October 18th. The transfers will occur twice per week, starting with 10 to 20 individuals being transferred during each transfer. No current detainees with any pending immigration-related matters will be transferred.

All the transferees will receive the same services provided to all individuals currently incarcerated at Bedford and Taconic, and the transferees will be integrated into the existing populations at both facilities, with the exception of those who are currently housed in the Special Consideration Unit (SCU) at Rikers; DOCCS will mimic the housing and services conditions at the two facilities for this population. The Department will provide daily transportation from New York City to the facilities for family members and loved ones of detainees, beginning Friday, October 22nd.

The Court's Order also required the Defendants to provide data, broken down by day, regarding (a) The number of new admission incarcerated individuals who remained in Intake for longer than 24 hours, and the length of time each individual was in Intake; (b) The number of uniformed Staff out on sick leave; (c) The number of uniformed Staff on medically monitored/restricted duty status; (d) The number of uniformed Staff who did not report for a shift without providing a reason as required by Department policy; and (e) The number of instances when a housing unit had no Staff work a tour or had insufficient Staff available to adequately manage the population. A chart containing the required information is below.

| Date | a) # of new admissions in Intake for over 24 hours* | b) # of uniformed Staff out on sick leave | c) # of uniformed Staff on medically monitored/restricted duty status | d) # of uniformed Staff who did not report for a shift without providing a reason as required (i.e. AWOL) | e) # of instances when a housing unit had no Staff/insufficient Staff (i.e. unmanned posts) |
|--------------------|---|---|---|---|---|
| September 23, 2021 | 0 | 1670 | 751 | 37 | 78 |
| September 24, 2021 | 0 | 1682 | 731 | 52 | 103 |
| September 25, 2021 | 0 | 1707 | 728 | 47 | 118 |
| September 26, 2021 | 0 | 1746 | 733 | 44 | 112 |
| September 27, 2021 | 0 | 1712 | 747 | 50 | 109 |
| September 28, 2021 | 0 | 1659 | 770 | 33 | 108 |
| September 29, 2021 | 0 | 1627 | 769 | 38 | 93 |
| September 30, 2021 | 0 | 1628 | 765 | 30 | 93 |
| October 1, 2021 | 0 | 1642 | 767 | 18 | 116 |
| October 2, 2021 | 0 | 1631 | 762 | 17 | 118 |
| October 3, 2021 | 0 | 1656 | 765 | 21 | 109 |
| October 4, 2021 | 0 | 1624 | 765 | 22 | 114 |
| October 5, 2021 | 0 | 1579 | 775 | 21 | 97 |
| October 6, 2021 | 0 | 1566 | 780 | 24 | 103 |
| October 7, 2021 | 0 | 1558 | 791 | 23 | 102 |
| October 8, 2021 | 0 | 1544 | 773 | 32 | 113 |
| October 9, 2021 | 0 | 1579 | 771 | 25 | 108 |
| October 10, 2021 | 0 | 1628 | 777 | 38 | 115 |
| October 11, 2021 | 0 | 1642 | 780 | 35 | 40 |

*The 24-hour period is from the time the individual was placed in Department custody (e.g., at the courthouse) until the time the individual was placed into assigned housing. Note that the Department's 24-hour clock is put on pause for certain events, such as when the individual leaves the intake process for a scheduled court appearance, for mental health evaluations, or for hospital transfers.

Defendants will provide a similar status report to the Monitor by November 8, 2021. We thank the Court for its consideration of the within matter.

Respectfully submitted,

Kimberly Joyce /s/

Kimberly Joyce

cc: All counsel (by ecf)

The Court thanks the Defendants for providing this information and encourages the Defendants to work diligently and in good faith to address the dangerous conditions that remain at the NYC jails. The Defendants are encouraged to work cooperatively with the Monitoring Team in these efforts and to provide the requisite information to the Monitoring Team in a prompt and collaborative manner.

SO ORDERED.

/s/ Laura Taylor Swain, Chief USDJ 10/15/2021